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In re the Application of:

Leland James Wieseuegel)

Serial Number: 09/773,197)

Group:3679

Docket Number: AUS920000945US1)

Examiner: Eric K. Nicholson

Filed on: 01/31/2001)

For: "Dynamic Catalog for On-Line
Offering and Bid System")

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APPEAL BRIEF (Revised)***Real Party in Interest per 37 CFR §41.37(c)(1)(i)***

The subject patent application is owned by International Business Machines Corporation of Armonk, NY.

Related Appeals and Interferences per 37 CFR §41.37(c)(1)(ii)

The present patent application is related to US Patent Application number 09/714,726, docket number AUS9-2000-0736-US1, which is under appeal from final rejections. No decision from a court or the Board has been rendered in this related appeal.

Status of Claims per 37 CFR §41.37(c)(1)(iii)

Claims 1 - 15 are finally rejected. The rejections of Claims 1 - 15 are appealed.

Status of Amendments after Final Rejections per 37 CFR §41.37(c)(1)(iv)

No amendments to the claims have been submitted or entered after final rejections.

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Summary of the Claimed Subject Matter per 37 CFR §41.37(c)(1)(v)

The present invention provides a method and system for creating and updating electronic information sets regarding available products for bid or purchase through an online auction or bidding system (pg. 10, line 17 - 19), collectively referred to as an Interactive Offer System.

Independent Claim 1 sets forth a method, independent Claim 6 sets forth a computer-readable medium encoded with software for performing a method, and independent Claim 11 sets forth a corresponding system for accomplishing the objectives of the invention, in which:

- (1) at least two repositories of information sets and data items are indexed to product part numbers or market identifiers (pg. 13 lines 6 - 9, pg. 14 lines 1 - 5; Fig. 4 #60, #70, #71, and #609);
- (2) the information sets and data items are dynamically linked (pg. 13 lines 16 - 18) to the part numbers or market identifiers for available products by executing a synchronization script or program (pg. 13, lines 11 - 18), with the execution of the script being triggered at a predetermined time or responsive to a predetermined event (pg. 13 lines 4 - 6, pg. 14, lines 7 - 9);
- (3) then, responsive to receipt of a request by a trader, the contents of a Sales Preparation System are synchronized with the repositories such that all information sets and data items within all repositories represent full information sets of most recently created data items, including the contents of said Sales Preparation System (pg. 14, lines 10 - 16);
- (4) the synchronized Sales Preparation System contents are then promoted to an online auction system responsive to authorization of the trader (pg. 14, lines 14 - 19); and
- (5) the promoted contents are displayed or presented to one or more online bidders via an online auction system (pg. 14, lines 19 - 20).

Claims 2 - 5, 7 - 10, and 12 - 15, are dependent on claims 1, 6 and 9, respectively, and are argued on the same basis as the claims from which they depend.

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Grounds for Rejection For Which Review is Sought per 37 CFR §41.37(c)(1)(vi)

Review by the Board of the rejections of Claims 1 - 15 under 35 U.S.C. §102(e) as being anticipated by published U.S. patent application 2003/0009392 to Perkowski (hereinafter "Perkowski") is requested.

Arguments per 37 CFR §41.37(c)(1)(vii)**Rejections of Claims 1, 6 and 11 under 35 U.S.C. §102(e) over Perkowski**

The independent claims 1, 6, and 11, each specify steps, elements or limitations not taught by Perkowski. Perkowski provides a system in which the "links" between information items in a catalog are updated manually. In other words, the definitions of the links between items are manually created and manually reconfigured over time by a human operator, such as by system administrators. Perkowski para. [0496] states dynamic changes in relationships are "carried out by a system administrator or manager". Perkowski discloses "conventional data synchronization techniques" (para. 00437) which copy items (e.g. "import") from one database to another such that all databases contain the same information after synchronization (para. 0840 where data items are "imported" during synchronization). A "conventional" definition of "data synchronization" can be found at database ITToolBox.com, for example:

Database Administration > Merging/Synchronizing

...

Sub-topic definition: Merging or synchronizing data includes collecting and combining records from individual databases and transferring them into one master database from which all the data can be retrieved.

(Source: <http://www.http://database.ittoolbox.com/nav/t.asp?t=445&p=445&h1=445>)

As such, the *links* employed by the Perkowski system are relatively static in nature until manually modified, changed or updated. Their data synchronization process, however, follows the links to update information between databases, but does not modify or update the link definitions themselves.

Our system, by contrast, is transactional in nature, wherein the links between databases are updated in real time or on-demand (e.g. our definition of "dynamically linking") either in

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response to a specific event, such as a trader requesting sales preparation information, or upon a certain update period. In other words, our system is event-driven and automated such that all catalog information is updated on-demand without the need for human link creation or modification, as disclosed especially at pg. 12 lines 20 - 22, pg. 13 lines 4 -6 and lines 16 - 18 of our specification.

By "linking", we are using the verb ordinarily used in computer programming jargon to mean creation of or modification of a special type of pointer which points to a source of information. For example, Dictionary.com, a widely used online dictionary, defines the verb "linking" as:

linked v. linked, linking, links

v. tr.

1. To connect with or as if with a link: *linked the rings to form a chain*. See Synonyms at join.
2. Computer Science To make a hypertext link in: *linked her webpage to her employer's homepage*.

According to this well-known usage of the term "linking", we are meaning to create or modify a "link" between a database element and one or more sources for information for that database element. As such, by the term "dynamically linking", we mean automatically creating and modifying such links based upon logical conditions and events processed by our invention. To accomplish this, our invention employs a script which not only periodically or responsively updates *contents* of multiple databases (e.g. "synchronizes" database contents), but also periodically or responsively updates the *links* between those databases and their data elements.

In response to our amendment and explanation regarding this functional difference not taught by Perkowski, the rationale for the final rejections contains error for which review and reversal is requested by appellant. With particular respect to how Perkowski discloses establishing and managing the link definitions, the interpretation of the citation "As it may be desired" and "can be" in Perkowski's paragraph [0496] (see OA page 15) as implying that this is just one way, but other ways are taught, is improper interpretation of Perkowski's disclosure, and imports our disclosure into theirs. Perkowski states (emphasis added):

[0496] Notably, each information item contained within the information field shown along the same horizontal line of FIG. 4A1 is symbolically

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related or linked. Different products of the same registrant or related registrant may also be linked together so that a user looking for information about a particular product is automatically provided with URLs which are assigned to related products of the registrant which may satisfy the goals or objectives of a particular advertising and/or marketing campaign or product promotion program of the registrant company. As It may be desired to relate particular products at particular points in time, the relationships therebetween can be dynamically changed within the IPI Registrant Database by a straightforward database updating operation carried out by a system administrator (or manager) who, in theory, can be located virtually anywhere throughout the world. Expectedly, such database updating operations would be carried out using appropriate system access and security procedures well known in the art.

It was stated in the rationale for the final rejections that this language is “operative language”, and that applicant “ignored” this “operative language” in the previous reply to the examiner. However, appellant notes with particular emphasis that the verb “desired” is an operation only possibly performed by humans, not machines. Also from Dictionary.com, the commonly employed definition of “desire” is:

desire

tr.v. desired, desiring, desires

1. To wish or long for; want.
2. To express a wish for; request

Perkowski provides no alternate, unconventional definition of “desired” which would enable one of ordinary skill in the art to program a script to wish for changes to links between data elements in databases. Thus, appellant proposes that interpreting Perkowski’s link definition or link establishment step as being limited to a *manually* performed action is consistent with the verb “desired” used by Perkowski, and is consistent with another phrase in the very same sentence which *explicitly* states this step is performed by a human (e.g. a system administrator or manager).

Other paragraphs in Perkowski were cited in the rationale for the final rejections wherein it is proposed that Perkowski teaches automated link definition and updating, but these

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paragraphs only teach of updating information which is already linked, e.g. the links were manually and statically established while Perkowski's applets periodically get information from the sources to which the links point in order to synchronize data.

It is improper and erroneous to use Perkowski's "can be" and "As it may be desired" phrases to *imply* a 102(e) anticipation of a step, element or limitation we have claimed if Perkowski is silent as to such variations or alternatives, and if Perkowski is silent as to special or non-conventional definitions. Therefore, it has not been shown where Perkowski teaches automatically changing links according to our definition of "dynamically linking" (e.g. to point to sources of more recent or current information), and appellant requests reversal of the rejections of Claims 1, 6 and 11.

Rejections of Claims 2 - 5, 7 - 10, and 12 - 15 under 35 U.S.C. §102(e) over Perkowski

Claims 2 - 5, 7 - 10, and 12 - 15 are dependent upon Claims 1, 6, and 11, respectively, and thus incorporate the steps, elements or limitations not taught by Perkowski as discussed in the foregoing paragraphs. For these reasons, appellant requests reversal of the rejections of claims 2 - 5, 7 - 10, and 12 - 15.

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Summary of Arguments

For the foregoing reasons, it is submitted that the rejections of Claims 1 - 15 were erroneous for:

- (A) failing to examine our claims in light of our specification and the definitions for our terminology provided therein;
- (B) failing to employ industry-accepted definitions of terms when interpreting claim terms for which a disclosure is silent; and
- (C) failing to consider the entirety of the disclosure of the cited art in order to determine the meaning of the terms used in the cited art.

Appellant requests reversal of the rejections of claims 1 - 15.

Respectfully Submitted,

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Claims Appendix*per 37 CFR §41.37(c)(1)(viii)***Clean Form of Amended Claims****Claim 1 (previously amended):**

A method for providing electronic catalogs of information sets regarding available products for bid or purchase through an online auction or bidding system collectively referred to as an Interactive Offer System, said method comprising the steps of:

providing at least two repositories of information sets and data items indexed to product part numbers or market identifiers;

dynamically linking said information sets and data items to said part numbers or market identifiers for available products by executing a synchronization script or program, said execution being triggered at a predetermined time or responsive to a predetermined event;

upon request by a trader, synchronizing contents of a Sales Preparation System with said two or more repositories such that all information sets and data items within all repositories represent full information sets of most recently created data items, including the contents of said Sales Preparation System;

promoting said synchronized Sales Preparation System contents to an online auction system responsive to authorization of said trader; and

presenting said promoted contents to one or more online bidders via said online auction system.

Claim 2 (original):

The method as set forth in Claim 1 wherein said step of synchronizing is performed on a periodic basis.

Claim 3 (original):

The method as set forth in Claim 1 wherein said step of synchronizing is performed responsive to a request for said information sets in any of the repositories.

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Claim 4 (original):

The method as set forth in Claim 1 further comprising the step of providing a list to a user, said list having part numbers and dynamic links to said information sets and data items associated with said listed part numbers.

Claim 5 (original):

The method as set forth in Claim 1 further comprising the step of saving a copy of an information set linked to a part number such that said saved copy is statically linked to said most recently created data items.

Claim 6 (previously amended):

A computer readable medium containing program code for providing electronic catalogs of information sets regarding available products for bid or purchase in through an online auction or bidding system collectively referred to as an Interactive Offer System, said program code when executed by a computer causing the computer to perform the steps of:

providing at least two repositories of information sets and data items indexed to product part numbers or market identifiers;

dynamically linking said information sets and data items to said part numbers or market identifiers for available products by executing a synchronization script or program, said execution being triggered at a predetermined time or responsive to a predetermined event;

upon request by a trader, synchronizing contents of a Sales Preparation System with said two or more repositories such that all information sets and data items within all repositories represent full information sets of most recently created data items, including the contents of said Sales Preparation System;

promoting said synchronized Sales Preparation System contents to an online auction system responsive to authorization of said trader; and

presenting said promoted contents to one or more online bidders via said online auction system.

Serial No. 09/773,197Leland James WiesehuegelPage 10 of 13**Claim 7 (original):**

The computer readable medium as set forth in Claim 6 wherein said program code for synchronizing is adapted to perform synchronization on a periodic basis.

Claim 8 (original):

The computer readable medium as set forth in Claim 6 wherein said program code for synchronizing is adapted to perform synchronization responsive to a request for said information sets in any of the repositories.

Claim 9 (original):

The computer readable medium as set forth in Claim 6 further comprising program code for performing the step of providing a list to a user, said list having part numbers and dynamic links to said information sets and data items associated with said listed part numbers.

Claim 10 (original):

The computer readable medium as set forth in Claim 6 wherein said program code for further comprises program code for saving a copy of an information set linked to a part number such that said saved copy is statically linked to said most recently created data items.

Claim 11 (previously amended):

A system for providing a dynamic online listing of information regarding items available for purchase or bid through an online auction system, comprising:

- at least two computer-readable repositories of descriptive data items;
- a plurality of dynamic links between descriptive data items and product part numbers or market identifiers, said links being established by executing a synchronization script or program, said execution being triggered at a predetermined time or responsive to a predetermined event;
- a repository synchronizer which, responsive to a trader request, dynamically updates links to descriptive data items adapted to replace links to older data items with

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links to newer data items, and adapted to add links to data items which were not previously available;

an offer promoter for promoting said synchronized Sales Preparation System contents to an online auction system responsive to authorization of said trader; and

a user interface to an Interactive Offer System user interface adapted to present said promoted contents to one or more online bidders via said online auction system.

Claim 12 (previously amended):

The system as set forth in Claim 11 wherein said repository synchronizer is further adapted to replace and add links on a timed basis.

Claim 13 (previously amended):

The system as set forth in Claim 11 wherein said repository synchronizer is further adapted to replace and add links responsive to a request for information from said repositories.

Claim 14 (previously amended):

The system as set forth in Claim 11 further comprising a offer description creator adapted to capture or copy dynamically linked data items to a part number into a second set of descriptive data items which are statically related to said part number.

Claim 15 (previously amended):

The system as set forth in Claim 11 further comprising an offer list creator adapted to create a list of part numbers associated with dynamic links to said data items.

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Evidence Appendix
per 37 CFR §41.37(c)(1)(ix)

No evidence has been submitted by applicant or examiner pursuant to 37 CFR §§1.130, 1.131, or 1.132.

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Related Proceedings Appendix

per 37 CFR §41.37(c)(1)(x)

No decisions have been rendered by a court or the Board in the related proceedings as identified under 37 CFR §41.37(c)(1)(ii).